



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2121

Introduced 2/20/2009, by Sen. Deanna Demuzio

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5

Amends the Environmental Protection Act. Limits the circumstances under which the Environmental Protection Agency must send a fee notice to existing NPDES permittees. Exempts NPDES construction-site storm water permittees who meet certain requirements from paying an annual NPDES construction-site storm water permit fee after payment of an initial annual fee of \$500 before January 1, 2010 or \$750 on and after January 1, 2010 (now, NPDES construction-site storm water permittees must pay \$500 initially and \$500 each subsequent year, except if a permit is issued during the months of January through June, then the permittee may be exempt from paying an annual fee during "the 12 months beginning July 1 that immediately follow the period for which the initial annual fee was due"). Under existing law and this Act, the Agency may prorate the initial annual fee in the case of permits issued during the months of January through June. Effective immediately.

LRB096 03171 JDS 13188 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 12.5 as follows:

6 (415 ILCS 5/12.5)

7 Sec. 12.5. NPDES discharge fees; sludge permit fees.

8 (a) Beginning July 1, 2003, the Agency shall assess and  
9 collect annual fees (i) in the amounts set forth in subsection  
10 (e) for all discharges that require an NPDES permit under  
11 subsection (f) of Section 12, from each person holding an NPDES  
12 permit authorizing those discharges (including a person who  
13 continues to discharge under an expired permit pending  
14 renewal), and (ii) in the amounts set forth in subsection (f)  
15 of this Section for all activities that require a permit under  
16 subsection (b) of Section 12, from each person holding a  
17 domestic sewage sludge generator or user permit.

18 Each person subject to this Section must remit the  
19 applicable annual fee to the Agency in accordance with the  
20 requirements set forth in this Section and any rules adopted  
21 pursuant to this Section.

22 (b) Within 30 days after the effective date of this  
23 Section, and each year thereafter, except when a fee is not due

1 because of the operation of subsection (c), the Agency shall  
2 send a fee notice by mail to each existing permittee subject to  
3 a fee under this Section at his or her address of record. The  
4 notice shall state the amount of the applicable annual fee and  
5 the date by which payment is required.

6 Except as provided in subsection (c) with respect to  
7 initial fees under new permits and certain modifications of  
8 existing permits, fees payable under this Section are due by  
9 the date specified in the fee notice, which shall be no less  
10 than 30 days after the date the fee notice is mailed by the  
11 Agency.

12 (c) The initial annual fee for discharges under a new NPDES  
13 permit or for activity under a new sludge generator or sludge  
14 user permit must be remitted to the Agency prior to the  
15 issuance of the permit. The Agency shall provide notice of the  
16 amount of the fee to the applicant during its review of the  
17 application. In the case of a new NPDES or sludge permit issued  
18 during the months of January through June, the Agency may  
19 prorate the initial annual fee payable under this Section.

20 The initial annual fee for discharges or other activity  
21 under a general NPDES permit must be remitted to the Agency as  
22 part of the application for coverage under that general permit.

23 Beginning January 1, 2010, in ~~In~~ the case of construction  
24 site ~~storm water~~ ~~stormwater~~ discharges for which a coverage  
25 letter under a general ~~new~~ NPDES permit or individual NPDES  
26 permit has been ~~is~~ issued or for which the application for

1 coverage under an NPDES permit has been filed with the Agency  
2 ~~during the months of January through June~~, no annual fee shall  
3 be due after payment of an initial annual fee in the amount  
4 provided in subsection (e)(10) of this Section. ~~for the 12~~  
5 ~~months beginning July 1 that immediately follow the period for~~  
6 ~~which the initial annual fee was due.~~

7 If a requested modification to an existing NPDES permit  
8 causes a change in the applicable fee categories under  
9 subsection (e) that results in an increase in the required fee,  
10 the permittee must pay to the Agency the amount of the  
11 increase, prorated for the number of months remaining before  
12 the next July 1, before the modification is granted.

13 (d) Failure to submit the fee required under this Section  
14 by the due date constitutes a violation of this Section. Late  
15 payments shall incur an interest penalty, calculated at the  
16 rate in effect from time to time for tax delinquencies under  
17 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
18 from the date the fee is due until the date the fee payment is  
19 received by the Agency.

20 (e) The annual fees applicable to discharges under NPDES  
21 permits are as follows:

22 (1) For NPDES permits for publicly owned treatment  
23 works, other facilities for which the wastewater being  
24 treated and discharged is primarily domestic sewage, and  
25 wastewater discharges from the operation of public water  
26 supply treatment facilities, the fee is:

1 (i) \$1,500 for the 12 months beginning July 1, 2003  
2 and \$500 for each subsequent year, for facilities with  
3 a Design Average Flow rate of less than 100,000 gallons  
4 per day;

5 (ii) \$5,000 for the 12 months beginning July 1,  
6 2003 and \$2,500 for each subsequent year, for  
7 facilities with a Design Average Flow rate of at least  
8 100,000 gallons per day but less than 500,000 gallons  
9 per day;

10 (iii) \$7,500 for facilities with a Design Average  
11 Flow rate of at least 500,000 gallons per day but less  
12 than 1,000,000 gallons per day;

13 (iv) \$15,000 for facilities with a Design Average  
14 Flow rate of at least 1,000,000 gallons per day but  
15 less than 5,000,000 gallons per day;

16 (v) \$30,000 for facilities with a Design Average  
17 Flow rate of at least 5,000,000 gallons per day but  
18 less than 10,000,000 gallons per day; and

19 (vi) \$50,000 for facilities with a Design Average  
20 Flow rate of 10,000,000 gallons per day or more.

21 (2) For NPDES permits for treatment works or sewer  
22 collection systems that include combined sewer overflow  
23 outfalls, the fee is:

24 (i) \$1,000 for systems serving a tributary  
25 population of 10,000 or less;

26 (ii) \$5,000 for systems serving a tributary

1 population that is greater than 10,000 but not more  
2 than 25,000; and

3 (iii) \$20,000 for systems serving a tributary  
4 population that is greater than 25,000.

5 The fee amounts in this subdivision (e)(2) are in  
6 addition to the fees stated in subdivision (e)(1) when the  
7 combined sewer overflow outfall is contained within a  
8 permit subject to subsection (e)(1) fees.

9 (3) For NPDES permits for mines producing coal, the fee  
10 is \$5,000.

11 (4) For NPDES permits for mines other than mines  
12 producing coal, the fee is \$5,000.

13 (5) For NPDES permits for industrial activity where  
14 toxic substances are not regulated, other than permits  
15 covered under subdivision (e)(3) or (e)(4), the fee is:

16 (i) \$1,000 for a facility with a Design Average  
17 Flow rate that is not more than 10,000 gallons per day;

18 (ii) \$2,500 for a facility with a Design Average  
19 Flow rate that is more than 10,000 gallons per day but  
20 not more than 100,000 gallons per day; and

21 (iii) \$10,000 for a facility with a Design Average  
22 Flow rate that is more than 100,000 gallons per day.

23 (6) For NPDES permits for industrial activity where  
24 toxic substances are regulated, other than permits covered  
25 under subdivision (e)(3) or (e)(4), the fee is:

26 (i) \$15,000 for a facility with a Design Average

1 Flow rate that is not more than 250,000 gallons per  
2 day; and

3 (ii) \$20,000 for a facility with a Design Average  
4 Flow rate that is more than 250,000 gallons per day.

5 (7) For NPDES permits for industrial activity  
6 classified by USEPA as a major discharge, other than  
7 permits covered under subdivision (e) (3) or (e) (4), the fee  
8 is:

9 (i) \$30,000 for a facility where toxic substances  
10 are not regulated; and

11 (ii) \$50,000 for a facility where toxic substances  
12 are regulated.

13 (8) For NPDES permits for municipal separate storm  
14 sewer systems, the fee is \$1,000.

15 (9) For NPDES permits for ~~construction site or~~  
16 industrial storm water, the fee is \$500.

17 (10) For NPDES permits for construction site storm  
18 water, the fee is (i) \$500 for applications received by the  
19 Agency before January 1, 2010 or (ii) \$750 for applications  
20 received by the Agency on or after January 1, 2010.

21 (f) The annual fee for activities under a permit that  
22 authorizes applying sludge on land is \$2,500 for a sludge  
23 generator permit and \$5,000 for a sludge user permit.

24 (g) More than one of the annual fees specified in  
25 subsections (e) and (f) may be applicable to a permit holder.  
26 These fees are in addition to any other fees required under

1 this Act.

2 (h) The fees imposed under this Section do not apply to the  
3 State or any department or agency of the State, nor to any  
4 school district, or to any private sewage disposal system as  
5 defined in the Private Sewage Disposal Licensing Act (225 ILCS  
6 225/).

7 (i) The Agency may adopt rules to administer the fee  
8 program established in this Section. The Agency may include  
9 provisions pertaining to invoices, notice of late payment,  
10 refunds, and disputes concerning the amount or timeliness of  
11 payment. The Agency may set forth procedures and criteria for  
12 the acceptance of payments. The absence of such rules does not  
13 affect the duty of the Agency to immediately begin the  
14 assessment and collection of fees under this Section.

15 (j) All fees and interest penalties collected by the Agency  
16 under this Section shall be deposited into the Illinois Clean  
17 Water Fund, which is hereby created as a special fund in the  
18 State treasury. Gifts, supplemental environmental project  
19 funds, and grants may be deposited into the Fund. Investment  
20 earnings on moneys held in the Fund shall be credited to the  
21 Fund.

22 Subject to appropriation, the moneys in the Fund shall be  
23 used by the Agency to carry out the Agency's clean water  
24 activities.

25 (k) Except as provided in subsection (l) or Agency rules,  
26 fees paid to the Agency under this Section are not refundable.

1           (1) The Agency may refund the difference between (a) the  
2 amount paid by any person under subsection (e)(1)(i) or  
3 (e)(1)(ii) of this Section for the 12 months beginning July 1,  
4 2004 and (b) the amount due under subsection (e)(1)(i) or  
5 (e)(1)(ii) as established by this amendatory Act of the 93rd  
6 General Assembly.

7 (Source: P.A. 95-516, eff. 8-28-07.)

8           Section 99. Effective date. This Act takes effect upon  
9 becoming law.